

Hon. Lauren King

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ESTATE OF WILLIAM ABBE, deceased,
and KARA BRANDON, as personal
representative for the ESTATE OF
WILLIAM ABBE

Plaintiff,

vs.

CITY OF VANCOUVER; JAY ALIE,
individually and as an employee of Vancouver
Police Department, SEAN SUAREZ,
individually and as an employee of Vancouver
Police Department, SAMMY ABDALA,
individually and as an employee of Vancouver
Police Department,

Defendants.

No. 3:21-cv-05790-LK

AGREED MOTION FOR PARTIAL
DISMISSAL AS TO (1) PLAINTIFF'S
SECOND CAUSE OF ACTION AND
(2) PLAINTIFF'S CLAIM FOR
PUNITIVE DAMAGES AGAINST
DEFENDANT CITY OF VANCOUVER

NOTE ON MOTION CALENDAR:

January 11, 2022

Without oral argument

Plaintiff and Defendants, by and through undersigned counsel of record, hereby jointly
move the Court for the following relief:

1. The United States Supreme Court has held that a "citizen's claim that law
enforcement officials used excessive force in the course of making an arrest, investigatory stop,
or other 'seizure' of his person ... [is] properly analyzed under the Fourth Amendment's
'objective reasonableness' standard, rather than under a substantive due process standard."
Graham v. Connor, 490 U.S. 386, 388 (1989). Because Plaintiff's First Cause of Action alleges
excessive force under the Fourth Amendment, Plaintiff's Second Cause of Action (Dkt. 1 ¶¶ 6.1-

6.8), which claims a violation of the Fourteenth Amendment due to alleged excessive force, should be dismissed without prejudice as duplicative of Plaintiff's First Cause of Action.

2. Plaintiff's claim for punitive damages (Dkt. 1 ¶¶ 7.9 & 8.7) against Defendant City of Vancouver should be dismissed with prejudice as barred by *City of Newport v. Fact Concerts*, 453 U.S. 247, 271 (1981).

**BY THE SIGNATURES OF THE ATTORNEYS OF RECORD, THE PARTIES SO
STIPULATE TO THE FOREGOING.**

DATED on January 11, 2022.

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/s/ D. Angus Lee
(per email authorization dated 1/10/2022)
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/s/ Daniel G. Lloyd
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